

**CONTROL OF PRECURSOR CHEMICALS**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: A. Lamont Tyler**

**This act modifies the Utah Controlled Substance Precursor Act to reduce from 12 to 9 grams the maximum amount of ephedrine or pseudoephedrine a person who is not licensed to engage in regulated transactions and not excepted from licensure can possess without violating the law.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**58-37c-20**, as last amended by Chapter 1, Laws of Utah 2000

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **58-37c-20** is amended to read:

**58-37c-20. Possession of ephedrine or pseudoephedrine -- Penalties.**

(1) Any person who is not licensed to engage in regulated transactions and not excepted from licensure who, under circumstances not amounting to a violation of Subsection 58-37c-3(12)(k) or Subsection 58-37d-4(1)(a), possesses more than ~~[12]~~ 9 grams of ephedrine or pseudoephedrine, their salts, isomers, or salts of isomers, or a combination of any of these substances, is guilty of a class A misdemeanor.

(2) (a) It is an affirmative defense to a charge under Subsection (1) that the person in possession of ephedrine or pseudoephedrine, or a combination of these two substances:

(i) is a physician, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or an agent of any of these persons; and

(ii) possesses the substances in the regular course of lawful business activities.

(b) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this section as soon as practicable, but not later than ten days prior to trial. The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is



28 not unfairly prejudiced by the lack of timely notice.

29 (ii) The notice shall include the specifics of the asserted defense.

30 (iii) The defendant shall establish the affirmative defense by a preponderance of the  
31 evidence. If the defense is established, it is a complete defense to the charges.

32 (3) This section does not apply to dietary supplements, herbs, or other natural products,  
33 including concentrates or extracts, which:

34 (a) are not otherwise prohibited by law; and

35 (b) may contain naturally occurring ephedrine, ephedrine alkaloids, or pseudoephedrine,  
36 or their salts, isomers, or salts of isomers, or a combination of these substances, that:

37 (i) are contained in a matrix of organic material; and

38 (ii) do not exceed 15% of the total weight of the natural product.

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**Legislative Review Note**

**as of 12-19-01 9:07 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**